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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,286

07/01/2008

Steffen Wuensch

3503

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11/20/2009

MICHAEL J. STRIKER
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HUNTINGTON, NY 11743

EXAMINER

ELEY, TIMOTHY V

ART UNIT

PAPER NUMBER

3724

NOTIFICATION DATE

DELIVERY MODE

11/20/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

striker@strikerlaw.com

Office Action Summary	Application No. 10/594,286	Applicant(s) WUENSCH, STEFFEN	
	Examiner Timothy V. Eley	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/26/06, 11/5/07, 10/1/08</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. "its support flange" (claim 4, lines 2 and 3) and "their mounts" (claim 4, line 3) both lack proper antecedent basis since they were not properly earlier referred to.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8,10-12, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Long et al (7,313,838).

- a. Long et al discloses a hand-guided sander having a housing(12) whose size is essentially limited to that of a base of a sanding plate(16), wherein the housing is equipped to accommodate a rechargeable battery unit supported by clip 39.

See abstract and figure 6.

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- b. Regarding claim 2, the battery unit equipped with lithium-ion cells. See column 4, lines 30-34.
- c. Regarding claim 3, the height of the housing perpendicular to the base is at most as great as its longitudinal span along the base.
- d. Regarding claim 4, the sanding plate is joined to oscillation feet(44,45; see figure 6).
- e. Regarding claims 5 and 7, the motor is oriented perpendicular and/or parallel to a sanding plate, since in claim 1, the sanding plate is not positively recited as part of the device.
- f. Regarding claims 6 and 8, an electronic unit(22) is oriented with a flat side parallel and/or perpendicular to a sanding plate, since in claim 1, the sanding plate is not positively recited as part of the device.
- g. Regarding claim 10, the sanding plate has a symmetry axis which extends through its center of mass and on which a support point of the sanding plate is situated.
- h. Regarding claims 11 and 12, the housing has an electrical connection at 42(figure 9) for connecting to a charger, and which is inherently suitable for assuring that an operating voltage is supplied in at least one operating mode.
- i. Regarding claim 15, Long et al disclose a sander housing for containing at least one motor, a sanding drive unit for a sanding plate, and an electronic unit(at 42), and having a base for being attached to a sanding plate, whose longitudinal span is at least as great as a height of the housing

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perpendicular to the base characterized by means of a receptacle for a rechargeable battery unit.

5. Claims 1-3,5-12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by the EP(0232761) reference.

a. The EP reference discloses a hand-guided sander having a housing whose size is essentially limited to that of a base of a sanding plate, wherein the housing is equipped to accommodate a rechargeable battery unit. See abstract and figure 1.

b. Regarding claim 2, the battery unit equipped with lithium-ion cells.

c. Regarding claim 3, the height of the housing perpendicular to the base is at most as great as its longitudinal span along the base.

d. Regarding claims 5 and 7, the motor is oriented perpendicular and/or parallel to a sanding plate, since in claim 1, the sanding plate is not positively recited as part of the device.

e. Regarding claims 6 and 8, an electronic unit(22) is oriented with a flat side parallel and/or perpendicular to a sanding plate, since in claim 1, the sanding plate is not positively recited as part of the device.

f. Regarding claim 9, a transmission is situated between the motor and a sanding drive unit of the sanding plate and has a transmission ratio of at most 3, as broadly recited by applicant.

g. Regarding claim 10, the sanding plate has a symmetry axis which extends through its center of mass and on which a support point of the sanding plate is situated.

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h. Regarding claims 11 and 12, the housing has an electrical connection at 42 (figure 9) for connecting to a charger, and which is inherently suitable for assuring that an operating voltage is supplied in at least one operating mode.

i. Regarding claim 15, Long et al disclose a sander housing for containing at least one motor, a sanding drive unit for a sanding plate, and an electronic unit (at 42), and having a base for being attached to a sanding plate, whose longitudinal span is at least as great as a height of the housing perpendicular to the base characterized by means of a receptacle for a rechargeable battery unit.

j.

Claim Rejections - 35 USC § 103

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al (7,313,838) in view of the GB(2380440) reference

a. Long et al is explained above. Long et al does not disclose a housing which is comprised of a divided plastic casing having a first and a second housing part. However, GB discloses that it is old and well known in the art of sanding to using a housing which is comprised of a divided plastic casing having a first and a second housing part. See figure 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Long et al device by providing the housing with a first and a second housing part, as taught by the GB reference, in order to allow for easier replacement of internal parts.

Conclusion

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. The cited prior art discloses hand-guided sanders.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy V. Eley whose telephone number is 571-272-4506. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy V Eley/
Primary Examiner, Art Unit 3724

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